

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

CLEANUP AND ABATEMENT ORDER NO. R5-2007-07\_\_

FOR  
CLARK'S SEPTIC SERVICE, LLC  
RESTAURANT, GREASE TRAP, AND POULTRY WASTE REUSE AREAS  
STANISLAUS COUNTY

This Order is issued to Clark's Septic Service, Limited Liability Company (LLC), based on provisions of California Water Code Section 13304, which authorizes the Regional Water Quality Control Board, Central Valley Region, (hereafter Regional Water Board) to issue a Cleanup and Abatement Order (CAO).

The Executive Officer of the Regional Water Board finds, with respect to the Discharger's acts, or failure to act, the following:

1. Clark's Septic Service, LLC, owns and operates Clark's Septic Service and is hereafter referred to as "Discharger".
2. On 26 March 1993, the Regional Water Board adopted Waste Discharge Requirements (WDRs) Order No. 93-047, which prescribes requirements for the disposal of up to 20,000 gallons per day (gpd) of grease trap and poultry waste pumpings to land.
3. The land disposal areas authorized by WDRs Order No. 93-047 are as follows:
  - a. 14 acres at 1118 South Tegner Road in Turlock, in Section 21, T5S, R10E, MDB&M (Assessor's Parcel Number, or APN, 044-010-003-000). This parcel was owned by John Myrtakis, and was leased by Clark's Septic Service. This parcel is currently owned by J & R Investments, Incorporated, and Clark's Septic Service was evicted in April 2004.
  - b. 6 acres at 9585 Crows Landing Road, in Section 17, T5S, R9E, MDB&M (APN 022-036-003-000). This parcel is owned by Clark's Septic Service.
  - c. 16 acres at 695 Albers Road, in Section 22, T5S, R10E, MDB&M (APN 014-044-004-000). This parcel is owned by Clark's Septic Service.

**COMPLIANCE HISTORY**

4. Following an inspection of the Discharger's disposal areas on 28 June 1999, Regional Water Board staff issued a Notice of Violation (NOV) on 26 July 1999 for violations of the WDRs. As documented in the 28 June 1999 inspection report, Regional Water Board staff noted the following violations of WDRs Order No. 93-047:
  - a. Domestic septage had been discharged to the land application areas. Discharge Prohibition A.4 of WDRs Order No. 93-047 states that "[d]ischarge of septage is prohibited."

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- b. No crops were being cultivated to uptake nitrogen added by the waste disposal. In addition, the site inspection report noted that a recent crop had been disked into the soil rather than being harvested and removed, thereby adding more nitrogen to the soil. This violated Discharge Specification B.4, which states that “[l]and application of the wastes shall not exceed the annual nitrogen uptake anticipated for the crops to be grown on the reuse area.”

The NOV requested the Discharger to submit a technical report by 16 August 1999, including a response to the complaint regarding disposal of septage at one or more of the disposal sites, a workplan to ensure waste incorporation into the soil within 24 hours of application in compliance with Discharge Specification B.3, and a cropping plan based on soil and waste testing that demonstrated adequate crop uptake of nutrients in the discharge. The Discharger failed to submit the technical report.

5. The facility was inspected again on 27 June 2000. On 5 July 2000, Regional Water Board staff transmitted a copy of the inspection report and reiterated the request for the technical report requested in the 26 July 1999 NOV. The inspection report noted the continuing presence of feminine hygiene products at the Crows Landing Road disposal area and documented Regional Water Board staff reminding the Discharger of Discharge Specification B.3, which requires wastes to be incorporated into the soil within 24 hours of arrival at the land disposal site.
6. On 12 October 2001, Regional Water Board staff conducted another inspection. On 17 October 2001, Regional Water Board staff issued an NOV for violations of the WDRs. The NOV cited the Discharger for discharging septage to the Crows Landing Road disposal area, as evidenced by the presence of plastic drinking straws and tampon applicators, in violation of WDRs Order No. 93-047 Prohibition A.4. The NOV requested the Discharger to submit, by 15 December 2001, a report describing operational modifications and/or procedures employed to eliminate the discharge of septage at the land disposal areas.
7. In a letter dated 17 December 2001, the Discharger submitted a response to the 17 October 2001 NOV. The response included photographs and a description of metal baskets created by the Discharger and attached to the pumper truck discharge valves. The Discharger described the baskets as being “...*designed with perforated metal, which allows the waste to flow out and contain solid items that may be therein.*” However, the use of perforated metal baskets does not preclude the discharge of liquid septage. Therefore, the Discharger’s response was inadequate to correct the violation.
8. On 19 November 2002, an NOV was issued to the Discharger for violating Monitoring and Reporting Program (MRP) No. 93-047 by failing to adequately monitor waste streams and for violating Discharge Specification B.4 by applying nitrogen in excess of the anticipated agronomic rate.
9. In mid-2006, Regional Water Board staff received complaints about the Discharger’s operations from Stanislaus County staff. On 3 October 2006, Regional Water Board staff, accompanied by Stanislaus County staff, conducted an inspection of the two active

disposal sites. As documented in the inspection report, Regional Water Board staff observed the following:

- a. Evidence of septage discharge at both locations, including portions of feminine hygiene products, bottle caps, straws, toilet paper, a knock-out from a septic sewer system distribution box, and truck load security tags from a trucking company for whom the Discharger provides septic system pumping. These items indicate violations of Discharge Prohibition A.4, which prohibits the discharge of septage;
  - b. Landspreading of wastes to access roads at 695 Albers Road site, where wastes cannot be incorporated into the soil, in violation of Discharge Specification B.3, which requires wastes to be landspread and incorporated into the soil within 24 hours of arrival at the site;
  - c. An agricultural well within 30 feet of the 9585 Crows Landing Road disposal area and wastewater disposal within 5 feet of an agricultural well and a property line at the 695 Albers Road site, in violation of Discharge Specification B.5, which requires a setback distance of not less than 100 feet from irrigation wells and not less than 25 feet from property lines;
  - d. No means of precluding the public from accessing the disposal sites, in violation of Discharge Specification B.7, which requires that public contact with wastes be precluded through such means as fences, signs, and other acceptable alternatives.
10. On 9 May 2007, Regional Water Board staff issued a Notice of Violation for the violations discovered during the 3 October 2006 inspection.

### **REGULATORY CONSIDERATIONS**

11. As described in the Findings, the discharge of septage to land and the discharge of grease trap and poultry waste pumpings within the prescribed setback distances to irrigation wells and property lines are violations of WDRs Order No. 93-047, and threaten to cause, or have caused, pollution or nuisance. The Discharger, by discharging prohibited wastes and by discharging permitted wastes outside the authorized disposal area, has caused or permitted, or threatens to cause or permit, waste to be discharged in such a manner that it threatens to cause, or has caused, a threat to public health and/or created a condition of pollution or nuisance. Each of these actions subjects the Discharger to an order under Section 13304 of the California Water Code.
12. The *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, Fourth Edition*, (hereafter Basin Plan) designates beneficial uses, establishes water quality objectives, contains implementation plans and policies for protecting waters of the basin, and incorporates by reference plans and policies adopted by the State Water Board. Pursuant to Section 13263(a) of the California Water Code, waste discharge requirements must implement the Basin Plan.

13. Surface water drainage from the 9585 Crows Landing Road site is to the San Joaquin River, while surface water drainage from the 695 Albers Road site is to the Tuolumne River. The beneficial uses of the San Joaquin River and the Tuolumne Rivers are municipal and domestic supply; agricultural irrigation supply; industrial process supply; water contact recreation; non-contact water recreation; warm freshwater habitat; cold freshwater habitat; migration of aquatic organisms; spawning, reproduction, and/or early development; and wildlife habitat.
14. The beneficial uses of the underlying groundwater include municipal and domestic supply, agricultural supply, industrial service supply, and industrial process supply.
15. Section 13304(a) of the California Water Code provides that:

*"Any person who has discharged or discharges waste into the waters of this state in violation of any waste discharge requirement or other order or prohibition issued by a regional board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board, clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including, but not limited to, overseeing cleanup and abatement efforts. A cleanup and abatement order issued by the state board or a regional board may require the provision of, or payment for, uninterrupted replacement water service, which may include wellhead treatment, to each affected public water supplier or private well owner. Upon failure of any person to comply with the cleanup or abatement order, the Attorney General, at the request of the board, shall petition the superior court for that county for the issuance of an injunction requiring the person to comply with the order. In the suit, the court shall have jurisdiction to grant a prohibitory or mandatory injunction, either preliminary or permanent, as the facts may warrant."*
16. Section 13267(b) of the California Water Code provides that:

*"In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports."*
17. The technical reports required by this Order are necessary to ensure compliance with this Cleanup and Abatement Order and WDRs Order No. 93-047, and to ensure the protection

of public health and safety and protection of waters of the state. The Discharger owns and operates the facility that discharges waste subject to this Order.

18. The issuance of this Order is an enforcement action taken by a regulatory agency and is exempt from the provisions of the California Environmental Quality Act, pursuant to Section 15321(a)(2), Title 14, California Code of Regulations.
19. Any person affected by this action of the Regional Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with Section 2050 through 2068, Title 23, California Code of Regulations. The petition must be received by the State Water Board within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions are available at [http://www.waterboards.ca.gov/water\\_laws/cawtrcde/wqpetition\\_instr.html](http://www.waterboards.ca.gov/water_laws/cawtrcde/wqpetition_instr.html) and will also be provided upon request.

**IT IS HEREBY ORDERED**, pursuant to Sections 13304 and 13267 of the California Water Code, Clark's Septic Service, Limited Liability Company, shall cleanup and abate, forthwith, the land disposal areas at 9585 Crows Landing Road (APN 022-036-003-000) and 695 Albers Road (APN 014-044-004-000) such that all the requirements prescribed in WDRs Order No. 93-047 are met.

Any person signing a document submitted under this Order shall make the following certification:

*"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my knowledge and on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."*

1. The Discharger shall **immediately** comply with all aspects of WDRs Order No. 93-047.
2. The Discharger shall **immediately** cease discharge of septage to land.
3. The Discharger shall **immediately** cease any discharge of stormwater and/or irrigation tailwater from the land disposal areas.
4. By **31 July 2007**, the Discharger shall submit a *Septage Separation Report*, which shall include sufficient information to demonstrate that waste acceptance and disposal procedures have been changed to ensure septage waste is not discharged to land.
5. By **31 July 2007**, the Discharger shall submit a *Nitrogen Loading Workplan*. For each disposal area, the Workplan shall include a soil sampling plan for nitrogen compounds, including nitrate (as N), nitrite (as N), ammonia (as N), organic nitrogen, and total Kjeldahl nitrogen. For each of the two disposal areas, the Discharger shall establish, with

concurrence of Regional Water Board staff, three soil profile monitoring locations and one representative background location. The background location shall be in an area that historically received neither industrial and commercial wastewater nor septage, preferably off of the Discharger's property and in an area not used for pasturing livestock. Soil sample analyses shall be conducted using deionized water and the Waste Extraction Test method, as defined in Title 22 of the California Code of Regulations. Soil samples shall be collected at depths of 0.5 feet, 3 feet, and 6 feet. An appropriate registered professional experienced in the field of wastewater treatment and disposal and groundwater investigation shall prepare the technical report.

6. By **31 July 2007**, the Discharger shall submit a *Groundwater Monitoring Well Installation Workplan*. The workplan shall describe the proposed installation of at least one monitoring well upgradient of each of the disposal areas located at 9585 Crows Landing Road and 695 Albers Road, and a sufficient number of downgradient wells to determine whether groundwater quality has been impacted by the waste discharge at these disposal sites. Monitoring wells shall be constructed to yield representative samples from the uppermost layer of the uppermost aquifer and to comply with applicable well standards. The workplan shall be consistent with, and include the items listed in, the first section of Attachment A, *Requirements for Monitoring Well Installation Workplans and Monitoring Well Installation Reports*, which is attached hereto and made part of this Order by reference.
7. By **31 August 2007**, the Discharger shall submit a *Topography and Drainage Report*. For each of the two land disposal sites, the Report shall include a topographical map identifying drainage courses at the sites and points of discharge, or potential discharge, of stormwater and/or irrigation tailwater from the disposal areas. The Report shall also include a characterization of the soil type and slope of the soils to which waste is applied at each disposal site.
8. By **31 August 2007**, the Discharger shall submit a *Septage Disposal Report*, which shall include the following:
  - a. An itemization of the number of occasions on which septage was discharged to the land disposal areas for the period beginning 1 January 2004 and ending 30 June 2007. The itemization shall include, at a minimum, the following supporting documentation:
    - i. Copies of the daily logs for each of the septage trucks owned by the Discharger.
    - ii. Copies of receipts for discharge of septage at the City of Modesto's, the City of Tracy's, the City of Manteca's, and the City of Stockton's wastewater treatment plants;
    - iii. Copies of monthly pumper reports to the Counties of San Joaquin and Stanislaus; and

- b. An estimate of the total volume of septage discharged to each of the two disposal areas for the period beginning 1 January 2004 and ending 30 June 2007.
9. By **30 September 2007**, the Discharger shall collect soil samples in accordance with its approved *Nitrogen Loading Workplan*.
10. By **30 September 2007**, the Discharger shall submit a *Well Survey Report*. The Report shall contain the following:
- a. Well Map—A map showing the locations of all water wells within the land disposal area boundaries and showing the locations of all such wells within 500 feet outside of the land disposal area boundaries.
  - b. Well Owner—Name and address of the owner of each well indicated in 10.a.
  - c. Well Information—Well information, where available, for each water well indicated in 10.a including, but not limited to:
    - i. Total depth of well;
    - ii. Diameter of casing at ground surface and at total depth;
    - iii. Type of well construction (cable tool, rotary, *etc.*);
    - iv. Depth and type of perforations;
    - v. Name and address of well driller;
    - vi. Year of well construction;
    - vii. Use of well (agricultural, domestic, stock watering, *etc.*);
    - viii. Depth and type of seals;
    - ix. Lithologic, geophysical, and other types of well logs, if available; and
    - x. Water levels, pump tests, water quality, and other well data, if available.
  - d. Land use—Current land use within one mile of the land application area boundaries, including:
    - i. Types of land use (e.g., residential, commercial, industrial, agricultural, recreational, *etc.*);
    - ii. Types of crops;
    - iii. Types of livestock; and
    - iv. Number and location of dwelling units.
  - e. Groundwater Use—Current and estimated future use of groundwater within 500 feet of the land disposal area boundaries.
11. By **31 October 2007**, the Discharger shall submit a *Nitrogen Loading Report*. The Report shall include the results of at least one round of sampling for the constituents and locations identified in the approved *Nitrogen Loading Workplan*, as well as an analysis of potential impacts from the discharge.

12. By **30 November 2007**, the Discharger shall submit a *Groundwater Monitoring Well Installation Report* that describes the installation of groundwater monitoring wells, and contains the items found in the second section of Attachment A.
13. By **31 January 2009**, the Discharger shall submit a *Background Groundwater Quality Study and Degradation Assessment Report*. For each groundwater monitoring parameter/constituent identified in Revised Monitoring and Reporting Program (MRP) No. 93-047, the report shall present a summary of monitoring data collected in accordance with the Revised MRP, calculation of the concentration in background monitoring wells, and a comparison of background groundwater quality to that in downgradient wells. Determination of background quality shall be made using the methods described in Title 27 of the California Code of Regulations, Section 20415(e)(10), or equivalent, and shall be based on data from at least four consecutive quarterly (or more frequent) groundwater monitoring events. For each monitoring parameter/constituent, the report shall compare measured concentrations for compliance monitoring wells with the calculated background concentration.

If the *Background Groundwater Quality Study Report* shows that the wastewater discharge has impacted, or is likely to impact groundwater quality, then upon request of the Executive Officer the Discharger shall submit a *Groundwater Mitigation Plan* which shall evaluate contaminant control alternatives, describe a preferred alternative, and provide a proposed timeline to meet the Groundwater Limitations of WDRs Order No. 93-047. The selected contaminant control alternative must comply with State Water Resources Control Board Resolution No. 68-16 and be consistent with the most recent Basin Plan.

14. By **1 March 2009**, the Discharger shall submit a Report of Waste Discharge (RWD). The RWD shall consist of the following:
  - a. A completed Form 200 *Application/Report of Waste Discharge General Information* (enclosed), which for a corporation must be signed by a principal executive officer of at least the level of senior vice president.
  - b. The answers to the enclosed *Additional Information Requirements for a Report of Waste Discharge*. Please note that these answers must be in the form of a technical report prepared by a California Registered Professional Engineer or Geologist.
15. **Beginning with the third quarter of 2007**, the Discharger shall submit a *Quarterly Compliance Status Report*. These reports shall describe all work completed during the calendar quarter to comply with this Cleanup and Abatement Order; and any new or modified waste acceptance, handling, or disposal practices. These reports shall be submitted by the **1st day of the second month following the quarter for which the report is prepared** (e.g., the January-March quarterly report is due by May 1st).

In addition to the above, the Discharger shall comply with existing WDRs Order No. 93-047 and Revised MRP No. 93-047, as well as all applicable provisions of the California Water Code that



are not specifically referred to in this Order. As required by the California Business and Professions Code Sections 6735, 7835, and 7835.1, all reports shall be prepared by, or under the supervision of, a California Registered Engineer or Professional Geologist and signed by the registered professional.

If, in the opinion of the Executive Officer, the Discharger fails to comply with the provisions of this Order, the Executive Officer may refer this matter to the Attorney General for judicial enforcement or may issue a complaint for administrative civil liability.

Failure to comply with this Order may result in the assessment of an Administrative Civil Liability up to \$1,000 per day or up to \$10,000 per day of violation, depending on the violation, pursuant to the California Water Code, including section 13268. The Regional Water Board reserves its right to take any enforcement actions authorized by law.

This Order is effective upon the date of signature.

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PAMELA C. CREEDON, Executive Officer

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(Date)

Attachments:

- *Requirements for Monitoring Well Installation Workplans and Monitoring Well Installation Reports*
- *Form 200 Application/Report of Waste Discharge General Information*
- *Additional Information Requirements for a Report of Waste Discharge*

MRH: 18-June-07